

**GENERAL TERMS AND CONDITIONS OF SALE OF  
RUTEC LIGHTDESIGN GMBH****§ 1 General, scope of application**

- (1) The present General Terms and Conditions of Sale (T&C) shall apply to all our business relationships with our customers (hereinafter: "Buyer"). The T&C shall only apply if Buyer is an entrepreneur (§ 14 German Civil Code), a public-law entity or a public-law fund.
- (2) The T&C shall in particular apply to contracts for the sale and/or supply of movable objects (hereinafter: "Goods"), regardless of whether we manufacture Goods ourselves or purchase them from suppliers (§§ 433, 651 German Civil Code). The T&C shall also apply as amended as a framework agreement for further contracts for the sale and/or supply of movable objects with the same Buyer without us having to make reference to them in each individual case; we shall inform Buyer of changes to our T&C without delay in this case.
- (3) Our T&C shall apply exclusively. Deviating, contradicting or supplementary General Terms and Conditions of Business of Buyer shall only become an integral part of the contract to the extent that we have expressly approved their validity. This requirement of approval shall apply in any case, for example also if we perform delivery to Buyer without reservation despite knowledge of its T&C.
- (4) Individual agreements made with Buyer for an individual case (including side-agreements, addenda and amendments) shall in any case prevail over the present T&C. For the contents of such agreements, a written contract or our written confirmation shall be decisive.
- (5) Material declarations and notifications to be made to us by Buyer following conclusion of the agreement (e.g. setting of periods, notifications of defect, declarations of withdrawal or reduction of price) shall require written form in order to take effect.
- (6) References to the validity of statutory directives shall only have a clarifying meaning. Even without such clarification, the statutory directives shall only apply to the extent that they are not directly amended or expressly ruled out in the present T&C.

**§ 2 Conclusion of contract**

- (1) Our quotations shall be subject to change without notice and non-binding. This shall also apply if we have provided Buyer with catalogues, technical documentations (e.g. drawings, plans, calculations, references to DIN norms), other product descriptions or documents - also in an electronic form - to which we have reserved ownership or copyrights.
- (2) Ordering of the goods by Buyer shall be deemed a binding offer for a contract. If nothing to the contrary results from the order, we shall be entitled to accept said offer of a contract within 2 weeks of receipt by us.
- (3) Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of Goods to Buyer.

**§ 3 Delivery period and arrears in delivery**

- (1) The delivery period shall be individually agreed or stated by us upon acceptance of the order. If this is not the case, the delivery period shall be approx. 16 weeks from conclusion of contract. The delivery period shall be deemed complied with in the event of a punctual report of readiness for dispatch.
- (2) If we cannot comply with binding delivery periods for reasons for which we are not answerable (non-availability of the service), we shall inform Buyer about this without delay, simultaneously notifying the prospective, new delivery period. If the service is also not available within the new delivery period, we shall be entitled to partial or total withdrawal from the contract; any consideration already provided by Buyer shall be reimbursed by us without delay. A case of non-availability of the services in this sense shall in particular be a lack of punctual delivery to us by our supplier if we have concluded a congruent hedging transaction, neither we nor our suppliers have acted culpably or we are not obliged to procurement in the individual case.
- (3) Occurrence of our arrears in delivery shall be based on the statutory directives. In any case, however, a caution by Buyer shall be necessary. If we fall into arrears in delivery, Purchaser can claim liquidated damages from arrears. The lump-sum shall amount to 0.5% of the net price (delivery value) for each completed calendar week of arrears, albeit no more than 5% of the delivery value of the goods delivered with a delay. We reserve the right to prove that Buyer has not incurred any damage at all or only considerably less damage than the aforementioned lump-sum.
- (4) Buyer's rights according to § 8 of the present T&C and our statutory rights, in particular in an exclusion of the duty to perform (e.g. on account of impossibility or unreasonableness of the services and/or subsequent performance), shall remain unaffected.

**§ 4 Delivery, passage of risk, acceptance, arrears in acceptance**

- (1) Delivery shall be ex (warehouse) branch establishment in 28857 Syke, Germany, which is also place of performance. At Buyer's request and expense, Goods shall also be dispatched to a different destination (dispatch purchase). If not agreed to the contrary,

we shall be entitled to determine the nature of dispatch ourselves (in particular transport company, dispatch route, packaging).

- (2) The risk of chance destruction and chance deterioration of Goods shall pass to Buyer at the hand-over at the latest. However, in dispatch purchase, the risk of chance destruction and chance deterioration of Goods as well as risk of delay shall pass as early as supply of Goods to the haulier, freight forwarder or other person or institution intended to implement the dispatch. If acceptance has been agreed, it shall be decisive for the passage of risk. Apart from this, the statutory directives of law of contracts for work and services shall apply accordingly to an agreed acceptance. Arrears in acceptance on the part of Buyer shall be equated to hand-over or acceptance.

- (3) If Buyer falls into arrears in acceptance, refrains from a cooperation action or if our delivery is delayed for other reasons for which Buyer is answerable, we shall be entitled to demand indemnification of the damage resulting therefrom, including additional expenditure (e.g. warehouse costs). For this, we shall charge liquidated damages to the amount of 0.5% of the net price (delivery value) for each complete calendar week of the arrears, albeit no more than 5% of the delivery value of Goods accepted with a delay - starting with the delivery period or, in the event of no delivery period, with notification of readiness for dispatch of Goods, or 10% of the delivery value of Goods accepted with a delay in the event of a final non-acceptance.

Proofs of higher damages and our statutory claims (in particular reimbursement of additional expenditure, suitable indemnification, termination) shall remain unaffected; however, the lump-sum shall be offset against further-reaching monetary claims. Buyer shall remain free to prove that we have not incurred any or only considerably lower damage than the aforementioned lump-sum.

**§ 5 Prices and payment terms**

- (1) If not agreed to the contrary in the individual case, our current prices at the time of conclusion of the contract ex warehouse exclusive of statutory turnover tax shall apply.
- (2) For dispatch purchase (§ 4 subsection 1), Buyer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by Buyer. If we do not charge the actual transport costs incurred in the individual case, a lump-sum for transport costs (exclusive of transport insurance) to the amount of EUR 15.00 shall be deemed agreed. All and any customs, fees, taxes and other public dues shall be borne by Buyer. We shall not take back transport and all other packaging according to the Packaging Ordinance, they shall become Buyer's property; pallets shall form an exception.
- (3) Apart from this, the purchase price shall be due for payment within 30 days of invoicing and delivery and/or acceptance of Goods. For contracts with a delivery value of more than EUR 50,000, we shall however be entitled to demand an advance payment of 30% of the purchase price. The advance payment shall be due within 14 days of invoicing.
- (4) Buyer shall fall into arrears at the expiry of the aforementioned payment period. The purchase price shall bear interest at the statutory rate of default interest at the time for the duration of the arrears. We reserve the right to claim further-reaching damage from default. Towards merchants, our claims to the commercial maturity interest (§ 353 German Commercial Code) shall remain unaffected.
- (5) Rights to offset or retention shall only accrue to Buyer to the extent that its claim is legally effective or undisputed. In the event of defects in the service, Buyer's counter-rights, in particular according to § 7 subsection 6 sentence 2 of the present T&C, shall remain unaffected.
- (6) If, following conclusion of the agreement, it becomes recognisable that our claim to the purchase price is jeopardised due to a defective ability to pay of Buyer (e.g. by an application for opening of insolvency proceedings), we shall be entitled to rejection of service and - if applicable following setting of a period of grace - withdrawal from the contract according to the statutory directives (§ 321 German Civil Code). For contracts concerning manufacture of non-representable objects (individual productions), we can declare withdrawal immediately; the statutory regulations on dispensability of setting of periods of grace shall remain unaffected.

**§ 6 Retention of title**

- (1) Until complete payment of all our current and future claims from the purchase contract and an ongoing business relationship (secured claims), we reserve title to sold Goods.
- (2) The conditional commodities may not be pledged to third parties nor transferred by way of security before complete payment of the secured claims. Buyer shall notify us in writing without delay if and insofar as third parties make interventions against the goods belonging to us.
- (3) If Buyer is in breach of contract, in particular if the due purchase price is not paid, we shall be entitled to withdraw from the contract according to the statutory directives and/or to demand return of Goods on the basis of the retention of title. The request for return shall not simultaneously portray declaration of withdrawal; instead, we shall be

entitled merely to demand return of the goods and to reserve the right to withdrawal. If Buyer does not pay the due purchase price, we may only claim said rights if we have previously set a fruitless suitable period of grace for payment by Buyer or such a setting of a period is dispensable according to the statutory directives.

- (4) Buyer shall be authorised to resell and/or to process the conditional commodities in the ordinary course of business. In such a case, the following provisions shall apply as a supplement.
  - (a) The retention of title shall extend to the products originating by processing, blending or combination of our Goods at their complete value, in which context we shall be deemed manufacturers. If third parties' ownership rights remain in the event of processing, blending or combination with their goods, we shall acquire co-ownership in the ratio of the invoice values of the processed, blended or combined goods. Apart from this, the same shall apply to the product which originates as to the conditional commodities supplied.
  - (b) Buyer here and now assigns the claims against third parties originating from the resale of Goods or the product all told or to the amount of all and any share of co-ownership on our part according to the previous subsection by way of security. We accept the assignment. Buyer's duties stated in subsection 2 shall also apply with a view to the assigned claims.
  - (c) Buyer shall remain authorised to collect the claim alongside us. We undertake not to collect the claim as long as Buyer complies with its payment duties towards us, does not fall into arrears of payment, does not make an application for opening of insolvency proceedings and no other defect in its payment capacity exists. But if this is the case, we can demand that Buyer notifies us of the assigned claims and their debtors, gives all the information necessary for collection, provides the pertinent documents and notifies the assignment to the third parties (debtors).
  - (d) If the realisable value of the securities exceeds our claims by more than 10%, we shall release securities at our choice by request of Buyer.

## § 7 Buyer's claims from defects

- (1) The statutory directives shall apply to Buyer's rights for defects in quality and titles (including wrong and short delivery as well as improper assembly or defective assembly instructions), to the extent that nothing to the contrary has been determined below. The specific statutory directives for final delivery of the goods to a consumer shall remain unaffected in all cases (recourse against suppliers according to §§ 478, 479 German Civil Code).
- (2) The foundation for our liability for defects shall above all be agreements made about the property of Goods. An agreement about the property of Goods shall be deemed all product descriptions which are the subject matter of the individual agreement; it shall make no difference whether the product description comes from Buyer, the manufacturer or from us.
- (3) To the extent that the property has not been agreed, assessment shall be made according to the statutory regulation whether a defect exists or not (§ 434 subsection 1 sentences 2 and 3 German Civil Code). However, we shall assume no liability for public statements by the manufacturer or other third parties (e.g. advertising material).
- (4) Buyer's claims from liability shall presuppose that it has complied with its statutory examination and notification duties (§§ 377, 381 German Commercial Code). If a defect is seen at the examination or later, we shall be notified without delay. A notification shall be without delay if it is made within two weeks, punctual dispatch of the notification sufficing to comply with the period. Independent of this examination and notification duty, Buyer shall notify obvious defects (including wrong and short delivery) in writing within two weeks from delivery, in which context as well punctual dispatch of the notification shall suffice to comply with the period. If Buyer fails to make a proper examination and/or notification of defects, our liability for the defect not notified shall be ruled out.
- (5) If the supplied object is defective, we can to start with choose whether we provide subsequent performance by remedying the defect (subsequent performance) or by supply of a defect-free object (replacement delivery). Our right to reject subsequent performance under the statutory preconditions shall remain unaffected.
- (6) We shall be entitled to make owed subsequent performance dependent on Buyer paying the due purchase price. However, Buyer shall be entitled to withhold a suitable part of the purchase price proportionate to the defect.
- (7) Buyer shall give us the time and opportunity necessary for the owed subsequent performance, in particular providing the goods giving rise to complaint for examination purposes. In the event of subsequent delivery, Buyer shall return the defective object to us according to the statutory directives. Subsequent performance shall entail neither dismantling of the defective object nor repeated installation if we were not originally obligated to installation.
- (8) We shall bear the necessary expenditure for the purpose of examination and subsequent performance, in particular transport, travel, work and material costs (not: costs

of dismantling and installation) if a defect actually exists. But if Buyer's demand for remedying the defect proves to be unjustified, we can demand reimbursement of the costs incurred as a result from Buyer.

- (9) In urgent cases, e.g. jeopardy of operational safety or to avert disproportionate damage, Buyer shall have the right to remedy the defect itself and to demand reimbursement of the expenditure objectively necessary for this from us. We shall be informed without delay, if possible in advance, about such remedying by Buyer itself. The right to self-implementing shall not exist if we were justified to reject matching subsequent performance in accordance with the statutory directives.
- (10) If subsequent performance has failed or a period set by Buyer for subsequent performance has expired fruitlessly or is dispensable according to the statutory directives, Buyer can withdraw from the contract or reduce the purchase price. However, no right of withdrawal shall exist in the event of an inconsiderable defect.
- (11) Buyer's claims to damages and to reimbursement of vain expenditure shall only exist according to § 8 and have been ruled out apart from this.

## § 8 Miscellaneous liability

- (1) If nothing to the contrary results from the present T&C including the following provisions, we shall be liable according to the relevant statutory directives for a breach of contractual and extra-contractual duties.
- (2) We shall be liable for damages – regardless of the legal reason – for malice aforesighted and gross negligence. We shall only be liable for slight negligence
  - (a) for damage from an injury to life, limb or health,
  - (b) for damage from a breach of a cardinal contractual duty (duty, fulfilment of which makes proper performance of the contract possible and in compliance with which the contractual party regularly trusts and may trust); however, in such a case, our liability shall be limited to indemnification of the foreseeable damage typically occurring.
- (3) The disclaimers resulting from subsection 2 shall not apply to the extent that we have wilfully failed to disclose a defect or have assumed a guarantee for the property of the goods. The same shall apply to Buyer's claims according to the Product Liability Act.
- (4) Buyer can only withdraw or terminate on account of a breach of a duty not comprising a defect if we are answerable for the breach of the duty. A free right of termination for Buyer (in particular pursuant to §§ 651, 649 German Civil Code) is ruled out. Apart from this, the statutory preconditions and legal consequences shall apply.

## § 9 Barring by limitation

- (1) As a deviation from § 438 subsection 1 no. 3 German Civil Code, the general period of barring for claims from defects in title and quality shall be one year from delivery. If acceptance has been agreed, barring shall commence with acceptance.
- (2) However, if Goods are a building or an object used for a building according to its customary way of use and have caused its defectiveness (building material), the period for barring shall be 5 years from delivery in accordance with the statutory regulation (§ 438 subsection 1 no. 2 German Civil Code). Statutory special regulations for third parties' in rem claims to return (§ 438 subsection 1 no. 1 German Civil Code), for vendor's deceit (§ 438 subsection 3 German Civil Code) and for claims in recourse against suppliers in final supply to a consumer (§ 479 German Civil Code) shall also remain unaffected.
- (3) The above periods of barring from purchase law shall also apply to Buyer's contractual and extra-contractual claims to damage based on a defect in the goods, unless application of the regular statutory barring by limitation (§§ 195, 199 German Civil Code) would lead to a shorter barring in the individual case. The periods of barring from the Product Liability Act shall in any case remain unaffected. Apart from this, the statutory periods of barring shall exclusively apply to Buyer's claims to damages according to § 8.

## § 10 Choice of law and place of jurisdiction

- (1) The present T&C and all legal relationships between us and Buyer shall be governed by the law of the Federal Republic of Germany, ruling out international standardised law, in particular UN purchase law. Preconditions and effects of the retention of title according to § 6 shall be governed by the law at the location of the object in question to the extent that the choice of law made in favour of German law is inadmissible or ineffective there.
- (2) If Buyer is a merchant in the sense of the German Commercial Code, public-law entity or public-law fund, the exclusive – also international – place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship shall be our registered office in Syke. We shall however also be entitled to initiate proceedings at Buyer's general place of jurisdiction.

## § 11 Severability clause

If individual provisions of the agreement are or become partly or totally ineffective, the validity of the remaining provisions shall be unaffected. If a provision of the present agreement is ineffective, it shall be replaced by an effective one coming closest to the intended purpose from a commercial point of view.